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OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

7-12-89/LA

The Goa Sales Tax (Amendment) Act, 1989 (Goa Act No. 10 of 1989) which has been passed by the Legislative Assembly of Goa on 20-4-1989 and assented to by the Governor of Goa on 5-6-1989 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 15th June, 1989.

The Goa Sales Tax (Amendment) Act, 1989

(Goa Act No. 10 of 1989) [5-6-1989]

AN

ACT

further to amend the Goa, Daman and Diu Sales Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa in the Fortieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Sales Tax (Amendment) Act, 1989.

(2) It shall come into force on such date as the Government may, by notification, in the Official Gazette, appoint.

2. *Amendment of section 1.*— In the Goa, Daman and Diu Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"), for the words "Goa, Daman and Diu", wherever they occur, the word "Goa" shall be substituted.

3. *Amendment of section 2.*— In section 2 of the principal Act, —

(i) after clause (aaaaaa), the following clause (aaaaaaa) shall be inserted, namely:—

"(aaaaaaa) 'casual trader' means a dealer who, whether as principal, agent, or in any other capacity, has occasional or seasonal transactions involving the selling, supply or distribution of goods in the State of Goa;"

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) 'dealer' means any person who carries on (whether regularly or otherwise) the business of selling, supplying or distributing goods, directly or indirectly, for cash or for deferred payment, or for commission, remuneration or other valuable consideration in Goa, and includes —

(i) a local authority, a body corporate, a company, a Hindu undivided family, any co-operative society or a club or other association of persons which sells goods to its members;

(ii) a factor, broker, commission agent, delcredre agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinabove mentioned or not, who carries on the business of selling, supplying or distributing goods belonging to any principal whether disclosed or not;

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(iv) a person engaged in the business of transfer (otherwise than in pursuance of a contract) of property in any goods for cash, deferred payment or other valuable consideration;

(v) a person engaged in the business of transfer of property in goods (whether as

goods or in some other form) involved in the execution of a works contract;

(vi) a person engaged in the business of delivery of goods on hire purchase or any system of payment by instalments; and

(vii) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration:

Explanation 1.—Every person who acts as an agent, in Goa, of a dealer residing outside that State and sells, supplies or distributes goods or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of Goods Act, 1930 (Central Act 3 of 1930); or

(ii) an agent for handling of goods or documents of title relating to goods; or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment and every local branch or office in Goa of a firm registered outside Goa or a Company or other body corporate, the principal office or headquarters whereof is outside Goa shall be deemed to be a dealer for the purposes of this Act.

Explanation 2.—A Government which, whether or not in the course of business, sells, supplies or distributes, goods directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

Explanation 3.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause.”;

(iii) for clause (c), the following clause shall be substituted, namely:—

“(c) ‘Goa’ means the “State of Goa”;;

(iv) for clause (d), the following clause shall be substituted, namely:—

“(d) ‘goods’ means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes all materials, commodities and articles (including those to be used in the construction, fitting out, improvement or repair of immovable property or used in the fitting out, improvement or repair of movable property) and every kind of property (whether as goods or in some other form) involved in the execution of a works contract, and all growing crops, grass or things attached to, or forming

part of the land which are agreed to be severed before sale or under the contract of sale;”;

(v) after clause (f) and before clause (g), the following clause shall be inserted, namely:—

“(ff) ‘non-resident dealer’ means a dealer who has no place of business in Goa but who sells goods therein, or who sells goods from Goa to any place outside Goa;”;

(vi) for clause (k), the following clause shall be substituted, namely:—

“(k) ‘sale’ with all its grammatical variations and cognate expressions, means every transfer of the property in goods (other than by way of mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes—

(i) a transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;

(ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(iii) a delivery of goods on hire-purchase or any system of payment by instalments;

(iv) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable considerations.

Explanation 1.—(a) The sale or purchase of goods shall be deemed for the purposes of this Act, to have taken place in Goa wherever the contract of sale or purchase might have been made, if the goods are within Goa:—

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if these were separate contracts in respect of the goods at each of such places.

(c) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in Goa, if the goods are within Goa at the time of such transfer, irrespective of the place where the agreement for works contract is made, whether the assent of the other party is prior or subsequent to such transfer.

(d) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of the right to use any goods for any purpose

(whether or not for a specified period) shall be deemed to have taken place in Goa, if such transfer is for use within Goa, irrespective of the place where the contract of transfer of right to use any goods is made.

Explanation 2.—Every transaction for supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, shall be deemed to be a sale of those goods by the person making the supply and purchase of those goods by the person to whom such supply is made.

Explanation 3.—“Works Contract” includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.”

4. Amendment of section 4.—In section 4 of the principal Act, in clause (d) of sub-section (5), for the words “thirty thousand rupees”, the words “fifty thousand rupees” shall be substituted.

5. Insertion of new sections 4A and 4B.—After section 4 of the principal Act, the following sections shall be inserted, namely:—

“4A. Levy of tax on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract.—Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 4 but subject to sub-section (5) of the said section, every dealer shall pay for each year, a tax under this Act on his taxable turnover of transfer of property in goods which has not suffered tax at any point of sale in Goa (whether as goods or in some other form) involved in the execution of works contract. The goods are liable for tax at rates mentioned in various Schedules.

4B. Levy of tax on transfer of the right to use any goods.—Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 4 but subject to sub-section (5) of the said section, every dealer shall pay for each year a tax under this Act on his taxable turnover in respect of the transfer of the right to use any goods mentioned in column (2) of the Seventh Schedule for any purpose (whether or not for a specified period) at the rates to be notified by Government from time to time but subject to the maximum specified in the corresponding entries in column (3) of the said Schedule.

6. Amendment of section 7.—In section 7 of the principal Act, —

(i) In sub-section (1), after clause (bbb) and before clause (c), the following clauses shall be inserted, namely:—

“(bbbb) in respect of goods specified in the

Sixth Schedule at the rates specified under column 3 therein;

“(bbbb) in respect of goods specified in the Seventh Schedule at the rates specified under column 3 therein;

(ii) in sub-section (3), —

(i) in item (II) of the second proviso to clause (b), for the brackets and figure “(1)”, the brackets and figure “(2)”, shall be substituted;

(ii) the existing item (VI) shall be renumbered as item (VII) and before item (VII) so renumbered, the following item shall be inserted, namely:—

“(VI) goods utilised in the course of works contract by any dealer on which tax has already been paid at the point of sale/purchase by such dealer in Goa.”

7. Amendment of section 10A.—In sub-section (3) of section 10A of the principal Act, for the expression “assess the amount of tax so due”, the expression “assess or reassess the amount of tax so due, and all the provisions of this Act and the rules made thereunder shall, so far as may be, apply accordingly, in respect of the assessment or reassessment of the tax, as the case may be” shall be substituted.

8. Amendment of section 11.—In section 11 of the principal Act, sub-sections (6), (7) and (8) shall be re-numbered as sub-sections (8), (9) and (10), and before sub-section (8) so renumbered, the following sub-sections shall be inserted, namely:—

“(6) The Commissioner may, for good and sufficient cause, forfeit the whole or any part of the security obtained under sub-section (5),—

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in clause (ii) of sub-section (5) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(7) where by reason of any order under sub-section (6), the security furnished by any dealer is rendered insufficient, the Commissioner may demand additional security from such dealer as he deems fit.”

9. Amendment of section 12.—In sub-section (2) of section 12 of the principal Act, for the expression “of sub-sections (3), (4), (5), (7) and (8) of section 11”, the expression “of sub-sections (3), (4), (5), (6), (7), (9) and (10) of section 11” shall be substituted.

10. Amendment of section 13.—In section 13 of the principal Act, —

(i) sub-section (3) shall be renumbered as sub-section (5) and before sub-section (5) so

renumbered, the following sub-sections shall be inserted, namely:—

“(3) The Commissioner may, for good and sufficient cause, forfeit the whole or any part of the security obtained under sub-section (2),—

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in the first proviso to item (II) of sub-section (3) of section 7 or to have failed to keep them in proper custody;

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(4) Where by reason of any order under sub-section (3), the security furnished by any dealer is rendered insufficient, the Commissioner may demand additional security from such dealer as he deems fit.”;

(ii) sub-section (4) shall be renumbered as sub-section (6) and in sub-section (6) so renumbered, for the expression “the provisions of sub-sections (4), (7) and (8) of section 11”, the expression “the provisions of sub-sections (4), (9) and (10) of section 11” shall be substituted;

(iii) after sub-section (6) so renumbered, the following sub-section shall be added, namely:—

“(7) The Authority prescribed under sub-section (1) may on application made in this behalf and subject to such restrictions and conditions as it may impose, extend from time to time, the period specified in the provisional certificate of registration.”.

11. *Amendment of section 15.*—In section 15 of the principal Act,—

(i) in the proviso to clause (b) of sub-section (6), for the brackets and figure “(1)”, the brackets and figure “(2)” shall be substituted.

(ii) After clause (b) of sub-section (7), the following proviso shall be inserted, namely:—

“Provided that, notwithstanding anything contained in this Act or in the rules made thereunder but subject to such conditions as the Government or the Commissioner, as the case may be, if it or he thinks fit, may by general or special order specify, where a dealer to whom incentives by way of deferment of sales tax has been granted by virtue of eligibility certificate, and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by the Economic Development Corporation/Maharashtra State Financial Corporation/Scheduled Bank then such tax shall be deemed, in the public interest, to have been paid.”.

12. *Amendment of section 20.*—In section 20 of the principal Act, the existing provision of section shall be numbered as sub-section (1) and after sub-section (1) so numbered, the following sub-section (2) shall be inserted, namely:—

“(2) Every registered dealer shall ordinarily keep all his accounts, registers and documents

relating to his stock of goods, or to purchase, sales and deliveries of goods made by him, at the place or places of business specified in his certificate of registration or, with the previous approval of the Commissioner, at such other place as may be approved by the Commissioner.”.

13. *Amendment of section 26.*—In section 26 of the principal Act, for the words, brackets and figure “sub-section (1)”, the words, brackets and figure “sub-section (2)” shall be substituted.

14. *Insertion of new section 27A.*—The existing section 27A of the principal Act shall be renumbered as section 27B and before section 27B so renumbered, the following section shall be inserted, namely:—

“27A. *Determination of disputed questions.*—

(1) If any question arises, otherwise than in proceedings before a Court, or proceedings under section 17 or section 18 or section 27, about the interpretation of any provisions of this Act,—

(a) any person, society, club, firm or any branch or department of any firm, or any association of persons is a dealer; or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of the term “manufacture”; or

(c) any transaction is a sale; or

(d) any particular dealer is required to be registered; or

(e) any tax payable in respect of any particular sale or if the tax is payable, the rate thereof, the Commissioner upon application made in the prescribed manner, shall, after hearing the applicant and making such inquiries as may be necessary, make an order determining such question.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects any sale effected prior to such determination.

(3) If any such question arises from any order already passed under this Act, no such question shall be entertained for determination under this section; but such question may be raised in appeal against or by way of revision of such order.”.

15. *Amendment of section 28.*—In sub-section (8) of section 28 of the principal Act, for the expression “Court of the Judicial Commissioner of Goa, Daman and Diu”, the expression “High Court of Judicature at Bombay, Goa Bench, Panaji” shall be substituted.

16. *Amendment of section 29.*—In section 29 of the principal Act,—

(i) in sub-section (1),—

(a) for the words, brackets and figure “sub-section (1)”, the words, brackets and figure “sub-section (2)” shall be substituted;

(b) in clause (c), for the words, brackets and figure “sub-section (1)”, the words,

brackets and figure "sub-section (2)" shall be substituted.

(ii) in sub-section (2), in the proviso, for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted.

17. *Amendment of section 30.* — In sub-section (1) of section 30 of the principal Act, —

(i) in clause (k), for the expression "under sub-section (5) of section 11", the expression "under sections 11, 12 and 13" shall be substituted.

(ii) in the proviso, after the words and figures "under section 17 or section 31", the words and figures "or section 31A" shall be inserted.

18. *Amendment of section 31.* — In section 31 of the principal Act, in sub-section (1), for the words, brackets and figure "sub-section (1)" wherever they occur, the words, brackets and figure "sub-section (2)" shall be substituted.

19. *Insertion of new Schedules.* — After the Fifth Schedule to the principal Act, the following Schedules shall be inserted, namely: —

The Sixth Schedule

(See clause (bbbb) of sub-section (1) of section 7)

1. Turnover of cooked food and non-alcoholic drinks served or sold or supplied for consumption at or outside any eating house, restaurant, hotel, refreshment room or boarding establishment which is not a shop or establishment conducted primarily for sale of sweetmeats, confectionery, cakes, biscuits or pastries shall be taxed at the following rates:

1	2	3
(a) Turnover upto Rs. 1,00,000/-		Nil
(b) Turnover above Rs. 1,00,000/- but upto Rs. 1,50,000/-		2% of the difference in the turnover over Rs. 1,00,000/-.
(c) Turnover above Rs. 1,50,000/- but upto Rs. 2,00,000/-		Rs. 2,500/- + 4% of the difference of turnover over Rs. 1,50,000/-.
(d) Turnover above Rs. 2,00,000/- but upto Rs. 2,50,000/-		Rs. 4,500/- + 6% of the difference of the turnover over Rs. 2,00,000/-.
(e) Turnover above Rs. 2,50,000/- but upto Rs. 3,00,000/-		Rs. 7,500/- + 8% of the difference of the turnover over Rs. 2,50,000/-.
(f) Turnover above Rs. 3,00,000/- but upto Rs. 3,50,000/-		Rs. 11,500/- + 10% of the difference of the turnover over Rs. 3,00,000/-.
(g) Turnover above Rs. 3,50,000/- but upto Rs. 4,00,000/-		Rs. 16,500/- + 12% of the difference of the turnover over Rs. 3,50,000/-.
(h) Turnover above Rs. 4,00,000/- but upto Rs. 4,50,000/-		Rs. 22,500/- + 12% of the difference of the turnover over Rs. 4,00,000/-.
(i) Turnover above Rs. 4,50,000/- but upto Rs. 5,00,000/-		Rs. 28,500/- + 12% of the difference of the turnover over Rs. 4,50,000/-.
(j) Turnover above Rs. 5,00,000/-		Rs. 60,000/- + 12% of the difference of the turnover over Rs. 5,00,000/-.

The Seventh Schedule

(See clause (bbbb) of sub-section (1) of section 7)

Sr. No.	Description of goods	Rate of tax
1	2	3
1.	Plant and machinery including Cranes	Twelve percent
2.	Television sets, video cassettes recorders and players, prerecorded video cassette and video game equipments.	Twelve percent
3.	Furniture of all kinds.	Twelve percent
4.	Crockery of all kinds.	Twelve percent
5.	Any item to be specified by Government by notification.	Twelve percent

Secretariat Annexe,
Panaji,

Dated: 15-6-1989.

B. S. SUBBANNA,

Secretary to the Government of Goa,
Law Department (Legal Affairs).

Notification

7-15-89/LA

The Goa Public Health (Amendment) Act, 1989 (Goa Act No. 13 of 1989) which has been passed by the Legislative Assembly of Goa on 20-4-1989 and assented to by the Governor of Goa on 5-6-1989 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 15th June, 1989.

The Goa Public Health (Amendment) Act, 1989

(Goa Act No. 13 of 1989) [5-6-1989]

AN

ACT

further to amend the Goa Public Health Act, 1985.

Be it enacted by the Legislative Assembly of Goa in the Fortieth Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Goa Public Health (Amendment) Act, 1989.

(2) It shall come into force at once.

2. *Amendment of section 53.* — In sub-section (1) of section 53 of the Goa, Daman and Diu Public Health Act, 1985 (Act 25 of 1985).

(i) for clause (v), the following clause shall be substituted namely: —

"(v) should be removed to hospital or other place at which patients suffering from such disease are received for treatment,

the Health Officer may remove such person or cause him to be removed to such hospital or place”;

(ii) for clause (vii) the following shall be substituted namely:—

“(vii) In the case of a person who is found to be positive for acquired imuno deficiency syndrome by serological test, the Government may isolate such person for such period and on such conditions as may be considered necessary and in such Institution or ward thereof as may be prescribed.”;

(iii) in clause (xv) the following proviso shall be inserted at the end, namely:—

“Provided that in the case of an emergency, where blood transfusion is deemed necessary without waiting for the report of ELIZA test, written consent of the patient or guardian or relative shall be obtained before such blood transfusion.”.

Secretariat Annexe,
Panaji,
Dated: 15-6-1989.

B. S. SUBBANNA,
Secretary to the Government of Goa,
Law Department (Legal Affairs).